

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 4:05-CV-40014-FDS

SANDRA S. KATZ,)
Plaintiff,)
)
)
 v.)
)
)
DONNA LEE H. WILLIAMS, INSURANCE)
COMMISSIONER OF THE STATE OF DELAWARE)
AS RECEIVER OF NATIONAL HERITAGE)
LIFE INSURANCE COMPANY IN LIQUIDATION)
Defendant and Third Party Plaintiff)
)
)
 v.)
)
)
FEDERAL DEPOSIT INSURANCE CORPORATION,)
UNITED STATES OF AMERICA, E. PERRY KING,)
ALAN MASON, ALAN MASON LEGAL)
SERVICES, P.C., ALAN MASON LEGAL SERVICES,)
INC., ALAN MASON D/B/A ALAN MASON LEGAL)
SERVICES, P.C., ALAN MASON D/B/A ALAN)
MASON LEGAL SERVICES, INC., AND ALAN)
MASON LEGAL SERVICES, P.C. D/B/A ALAN)
MASON LEGAL SERVICES, INC.,)
Third Party Defendants.)

**DONNA LEE H. WILLIAMS', INSURANCE COMMISSIONER OF THE STATE
OF DELAWARE, UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
OPPOSITION TO MOTION TO DISMISS**

Now comes the Third-Party Plaintiff, Donna Lee H. Williams, Insurance Commissioner of the State of Delaware, as Receiver of National Heritage Life Insurance Company in Liquidation ("NHL"), and respectfully requests this Honorable Court to grant an extension of time to file its Opposition to the United States' Motion to Dismiss As to Third Party Complaint.

As grounds therefore, NHL states that the United States and the Federal Deposit Insurance Corporation (“FDIC”) served their Motion to Dismiss on April 4, 2005, in lieu of filing an answer.¹ Legal counsel for the United States and FDIC agreed to an extension of time for the filing of NHL’s opposition. The extension was agreed upon through May 6, 2005.

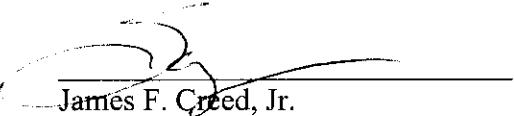
NHL requests an extension through May 6, 2005 for the filing of its opposition to the Motion to Dismiss due to the substantive nature of the Motion to Dismiss. Attached to the Motion to Dismiss are documents which are “outside the pleadings”, which documents result in the requirement that “the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56”. F.R.C.P. 12(b)(6). Moreover, the documents attached as exhibits were never previously produced to NHL despite requests for information pursuant to the Freedom of Information Act, 5 USC §552 and the Massachusetts Freedom of Information Act, G.L. c.66, §10 in July, 2004. In order to be able to properly respond to the allegations made by the United States and FDIC, including the scope of jurisdiction of this Court, NHL needs additional time to verify the documents, review the same, and prepare a response. NHL has started this process, but anticipates needing through May 6, 2005 to complete its response.

Counsel for the United States and the Federal Deposit Insurance Corporation do not oppose this motion or any extension of time.

¹ The United States and the FDIC were granted leave by this Court to file an Answer by April 4, 2005, which motion NHL did not oppose. The filing of a Motion to Dismiss in lieu of filing an Answer was not anticipated by NHL.

Respectfully submitted,
Donna Lee H. Williams,
Insurance Commissioner of
the State of Delaware As
Receiver of National Heritage
Life Insurance Company in

By her attorneys,



James F. Creed, Jr.
BBO#552138
Sara D. Trupe Cloherty
BBO#632528
CREED & FORMICA
1329 Highland Avenue
Needham, MA 02492
(781) 449-4600

Dated:

5/2/05

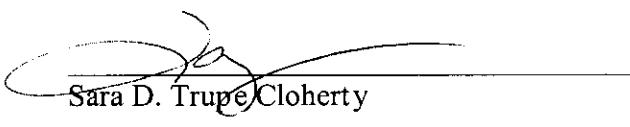
CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true copy of the within document to be served by first class mail, postage pre-paid to:

Robert B. Gibbons, Esq.
Kristin D. Thompson, Esq.
Mirick, O'Connell, DeMallie & Lougee, LLP
100 Front Street
Worcester, MA 01608

Anita Johnson
Assistant U.S. Attorney
U.S. Attorney's Office
Moakley United States Courthouse
One Courthouse Way – Suite 9200
Boston, MA 02210

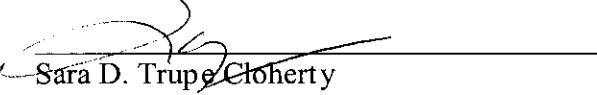
Nancy C. Serventi, Esq.
McDonough, Hacking, & Lavoie, LLP
6 Beacon Street, Suite 815
Boston, MA 02108


Sara D. Trupe Cloherty

Dated: 5/2/05

RULE 7.1 CONFERENCE

I hereby certify that on April 15, 2005 I conferred with counsel for the United States and the FDIC, Anita Johnson, Esq., and that she did not oppose any extension of time to file the opposition by NHL.


Sara D. Trupe Cloherty

Dated: 5/2/05